

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
MARIO MONTOYA JR.,
Defendant.

Case No.: 3:13-cr-00260-GPC

**ORDER DENYING MOTION FOR
REDUCTION OF SENTENCE**

[ECF No. 83]

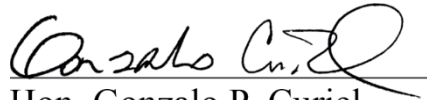
On October 15, 2015, nunc pro tunc to October 9, 2015, Defendant sent a letter to which the Court construed as a motion to appoint counsel to represent Defendant for purposes of a motion to reduce sentence pursuant to 35 U.S.C. § 3582(c). (ECF No. 83.) Defendant's seeks to file a petition for a reduction of sentence based on the U.S. Sentencing Commission's two-point reduction to the offense levels of the U.S.S.G. § 2D1.1(c) Drug Quantity Table in Amendment 782 (Nov. 1, 2014) made retroactive by Amendment 788 (Nov. 1, 2014). The U.S. District Court for the Southern District of California has adopted the District Protocol for Processing Applications under Guidelines Amendment 782 ("Drugs Minus Two"). (See General Order No. 642, available at [https://www.casd.uscourts.gov/Rules/GeneralOrders/Lists/General%20Orders/Attachments/156/General%20Order %20642.pdf](https://www.casd.uscourts.gov/Rules/GeneralOrders/Lists/General%20Orders/Attachments/156/General%20Order%20642.pdf).)

1 On July 12, 2016, pursuant to General Order No. 642, the Court provisionally
2 appointed Federal Defenders of San Diego, Inc. ("FDSDI") to initially represent Defendant
3 and set a hearing on Defendant's petition for September 16, 2016. (ECF No. 84.) On July
4 21, 2016, the United States filed an opposition to Defendant's petition on the basis that
5 Defendant was sentenced to 90 months in custody on November 13, 2014, under the
6 Guidelines effective on November 1, 2014 (i.e., amended guidelines taking into account
7 Amendment 782). (ECF No. 85.) The United States further states that FDSDI has
8 reviewed the materials in this case and represented that they will submit on the motion to
9 reduce.

10 Defendant is not eligible to receive a further sentence reduction because his amended
11 sentence was calculated using the Sentencing Guidelines as amended November 1, 2014.
12 Accordingly, the Court **DENIES** Defendant's Motion for Reduction of Sentence. The
13 hearing set for September 16, 2016 is hereby **VACATED**.

14 **IT IS SO ORDERED.**

15 Dated: August 3, 2016


16 Hon. Gonzalo P. Curiel
17 United States District Judge
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